IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 159 OF 2005

Satco Securities & Financial
Services Ltd. .. Applicant

Vs.

Shri Haresh P. Jashnani .. Respondent

Mr. P.K. Samdani i/b Juris Matrix for applicant.
Mr. Ajay Khandar for the Respondent.

CORAM : B. H. MARLAPALLE,J.

Date : February 03, 2006.

P.C.:

1. Heard the learned counsel for the applicant. The learned counsel for the respondent stated that he has already applied in Chamber Order No.100 of 2006 for leave to withdraw his appearance and the same has been made returnable on 8/2/2006. The reasons stated for this step is that he is not getting any response from the respondent inspite of repeated efforts by sending communications.

2. The agreement entered between the parties provides for the disputes/differences being referred to arbitration under the Arbitration and Conciliation Act, 1996. The said clause reads as under:-

> "26. In the event there be any dispute or difference between the parties hereto, the same shall be resolved by arbitration, if

possible of an arbitrator under The Arbitration and Conciliation Act, 1996."

. This agreement has been signed between the parties at Mumbai on 3/1/2004. It has been pointed out by the learned counsel for the petitioner that the respondent has been deliberately prolonging the decision in this application and, therefore, the same requires to be decided without any further delay. He has referred to the decision in the case of Konkan Railway Corporation Ltd. and anr. vs. Rani Construction Pvt. Ltd. **(2002) 2 SCC 388** to point out that in such circumstances the application could be decided even though the learned counsel for the respondent has already applied for withdrawal of his appearance for the reasons stated therein. The learned counsel for the petitioner also suggested the following three names and requested any one of them to be appointed as the sole Arbitrator:

(a) Mr. Justice S.M. Jhunjhunwala

(b) Mr. Justice D.R. Dhanuka

(c) Mr. Justice M.S. Jamdar

3. By following the law laid down in the case of Konkan Railway Corporation Ltd. (Supra), I hereby appoint Mr. Justice D.R. Dhanuka (Retired) as the

sole Arbitrator in terms of the agreement between the parties referred to hereinabove. The parties to remain present before the Arbitrator so appointed within a period of four weeks and finalise the further terms of arbitral proceedings including the time span etc. The petitioner to issue fresh notice to the respondent along with a copy of this order.

4. Application allowed in terms of the above order.

(B.H. Marlapalle,J.)